

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Rachel Murgio	Team: Squad #2	CCRB Case #: 202200693	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Saturday, 01/16/2021 7:11 PM	Location of Incident: Across the street from Barclays Center	Precinct: 78	18 Mo. SOL 7/16/2022	EO SOL 7/16/2022	
Date/Time CV Reported Fri, 01/21/2022 11:42 AM	CV Reported At: CCRB	How CV Reported: On-line website	Date/Time Received at CCRB Fri, 01/21/2022 11:42 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. SGT Kenneth Rice	04867	952164	LEG BUR

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. PO Destiny Lafargue	06792	968553	076 PCT
2. PO Sergio Meneses	14069	968637	069 PCT
3. PO Mohammed Rahim	18225	959106	067 PCT
4. PO Angeliesse Acevedo	27313	963834	POL ACAD
5. SGT Saidul Islam	01615	936798	067 PCT
6. PO Ivan Ramosnunez	17441	968085	070 PCT
7. PO Mahdi Sueidan	07190	969381	061 PCT
8. PO Mohammed Rahman	01711	964717	067 PCT
9. PO Robert Keco	21911	968533	066 PCT
10. PO Mostafa Mahmoud	02628	967590	066 PCT
11. SGT Jose Alegre	01414	937957	CSO INV
12. PO Christian Solarte	09193	968819	076 PCT
13. PO Craig Schoelermann	19383	962787	084 PCT
14. PO Jesse Trap	10734	960033	084 PCT
15. PO Harvey Rabel	18646	937321	SRG 3
16. PO Willie Peebles	10104	940555	SRG 3

Officer(s)	Allegation	Investigator Recommendation
A.SGT Kenneth Rice	Force: Sergeant Kenneth Rice used physical force against § 87(2)(b)	

Case Summary

On January 21, 2022, more than a year after the incident itself occurred, § 87(2)(b) filed this complaint online via the CCRB website.

On January 16, 2021, § 87(2)(b) was participating in a protest near Barclays Center. While § 87(2)(b) was filming the arrest of another protestor, Sergeant Kenneth Rice of Legal Bureau pushed § 87(2)(b) causing him to fall and strike his back on the ground (**Allegation A: Force – Physical force – § 87(2)(g)**). § 87(2)(b) was arrested later that evening at another location and charged with § 87(2)(b) (Board Review 28 and Board Review 42).

Body-worn camera (BWC) footage from the cameras of 16 officers across multiple commands is found in Board Reviews 01-19 and summarized in Board Reviews 20-21. § 87(2)(b) submitted cell phone and other personal recording device videos showing his incident and another location later in the evening; these are found in Board Reviews 22-25 and summarized in Board Reviews 26-27. Sergeant Rice provided several videos of the protests from social media, which he provided during his interview. These videos can be found in Board Reviews 34-36 and are summarized in Board Review 37.

Press articles and social media posts referencing the protest that this incident was part of are found in Board Reviews 29-33.

Findings and Recommendations

Allegation (A) Force: Sergeant Kenneth Rice used physical force against § 87(2)(b)

§ 87(2)(b) was interviewed by the CCRB via telephone on January 27, 2022 (Board Review 38). Sergeant Rice was interviewed at the CCRB on May 11, 2022 (Board Review 39).

It is undisputed that, during a protest at Barclays Center in Brooklyn, Sergeant Rice pushed § 87(2)(b) causing him to move backwards. At the time, § 87(2)(b) was standing in the street filming near the scene of an arrest of another protestor, and officers were telling protestors to get back on the sidewalk.

§ 87(2)(b) testified that he heard Sergeant Rice say, “On the sidewalk,” more than once but did not know if Sergeant Rice was speaking to him. § 87(2)(b) tripped and fell backwards after SGT Rice pushed him. § 87(2)(b) was not injured by the push and his subsequent fall.

Sergeant Rice testified that he told § 87(2)(b) to get back on the sidewalk. § 87(2)(b) used his left hand, palm out, to push into the left side of Sergeant Rice’s chest. Sergeant Rice was surprised and took a half step back as § 87(2)(b) pushed his whole body backwards. Sergeant Rice then pushed § 87(2)(b) back away from him. He wanted to get § 87(2)(b) back onto the sidewalk and create some distance between them, as he did not know § 87(2)(b) or his intentions, and prevent § 87(2)(b) from pushing him again. Sergeant Rice also noted that at the time, officers had just arrested a protestor for menacing an officer, and the scene was “loud and chaotic” as well as “contentious,” with protestors yelling and cursing at officers.

The video submitted by § 87(2)(b) found in Board Review 22, seems to show Sergeant Rice approaching § 87(2)(b) as the video begins and pointing back to the sidewalk. § 87(2)(b) raises his left hand to Sergeant Rice at approximately 0:01, then Sergeant Rice pushes § 87(2)(b) back.

The video submitted by Sergeant Rice that is linked to Board Review 35 shows Sergeant Rice stepping up to § 87(2)(b) and pointing behind him towards the sidewalk at approximately 0:05. At 0:06, § 87(2)(b) pushes Sergeant Rice in the left side of his chest with his left hand. Sergeant Rice takes a small step back with his left foot, then uses both of his hands to push § 87(2)(b) back, making contact with § 87(2)(b)'s left upper arm or shoulder. § 87(2)(b) is propelled backwards and out of the frame.

Complaint Report #§ 87(2)(b) states that the arresting officer for § 87(2)(b)'s later arrest, "was also informed by SGT. Rice... that earlier at the intersection of Flatbush Ave and Pacific Street § 87(2)(b) pushed Sgt. Rice after Sgt. Rice ordered § 87(2)(b) back on the sidewalk" (Board Review 42).

Patrol Guide Procedure 221-01 instructs officers on the use of force. Force may be used when it is reasonable to ensure the safety of a member of the service or a third person, or otherwise protect life. Any application or use of force must be reasonable under the circumstances. Factors to consider when determining whether the use of force was reasonable include actions taken by the subject, the immediacy of the perceived threat or harm to the subject; members of the service, and/or bystanders; the number of subjects in comparison to the number of members of service; and the presence of a hostile crowd or agitators (Board Review 43).

§ 87(2)(g)
[REDACTED]

Civilian and Officer CCRB Histories

- § 87(2)(b) has been party to two additional CCRB complaints § 87(2)(b)
[REDACTED]
 - [REDACTED]
 - [REDACTED]
- Sergeant Rice has been a member of service for ten years and has been a subject in four additional CCRB complaints and 14 additional allegations, none of which were substantiated. § 87(2)(g)
[REDACTED]

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- On May 17, 2022, a FOIL request for Notices of Claim was submitted to the New York City Office of the Comptroller. Any response will be added to the case file upon receipt.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[REDACTED]

Squad: 2

Investigator:	<u>Rachel Murgo</u> Signature	<u>Inv. Rachel Murgo</u> Print Title & Name	<u>18 May 2022</u> Date
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Squad Leader:	<u>Alexander Opoku-Agyemang</u> Signature	<u>IM Opoku-Agyemang</u> Print Title & Name	<u>5/18/2022</u> Date
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Reviewer:	<u></u> Signature	<u></u> Print Title & Name	<u></u> Date
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